

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT # FPP-14-02
PHEASANT HAVEN PHASE 4
FEBRUARY 25, 2015

A report to the Flathead County Board of Commissioners regarding a request for preliminary plat approval of Pheasant Haven Phase 4, a major subdivision that would create 5 single family residential lots. Located southeast of Kalispell, the subject property is situated north of Highway 82 near the intersection of Farm Road and Manning Road.

The Planning Board will hold a public hearing in the Earl Bennett Building conference room at 1035 First Avenue West, Kalispell on March 11, 2015 to review the proposal and make a recommendation to the Flathead County Commission. Final action on this proposal by the governing body must be taken prior to the review deadline of April 7, 2015. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, located in the Earl Bennett Building at 1035 First Avenue West, Kalispell, Montana.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposal is not located within the advisory area of a Land Use Advisory Council.

B. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed subdivision on March 11, 2015 and make a recommendation to the Flathead County Board of Commissioners. This space is reserved for a summary of the Planning Board's discussion and recommendation.

UPDATE 3/12/2015: The Flathead County Planning Board held a public hearing on this proposal on March 11, 2015. The Board adopted the staff report as "Findings of Fact". The Board voted unanimously on the motion to recommend approval to the County Commission. The recommended Findings of Fact and Conditions are included on the attached Planning Board Addendum to this report.

C. Commission

The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to April 7, 2015 which is the end of the 60 working day statutory review period. This space will contain an update regarding the Flathead County Commission review of the proposal.

II. GENERAL INFORMATION

A. Project Personnel

i. Developer/Owner

Dan Brosten, Brosten Farms LLC
2883 Lower Valley Road
Kalispell, MT 59901

ii. Technical Assistance

Sands Surveying, Inc.

2 Village Loop
Kalispell, MT 59901

Environmental Consulting Services
2 Village Loop
Kalispell, MT 59901

B. Project Description

The request is for preliminary plat approval of Pheasant Haven Phase 4, proposed to create 5 single family residential lots served by individual wells and wastewater treatment systems on 41.39 acres of land. Primary access to the subdivision would be from Pheasant Tail Court and Pheasant Haven Drive, internal subdivision roads serving Pheasant Haven Subdivision Phase 1-3.

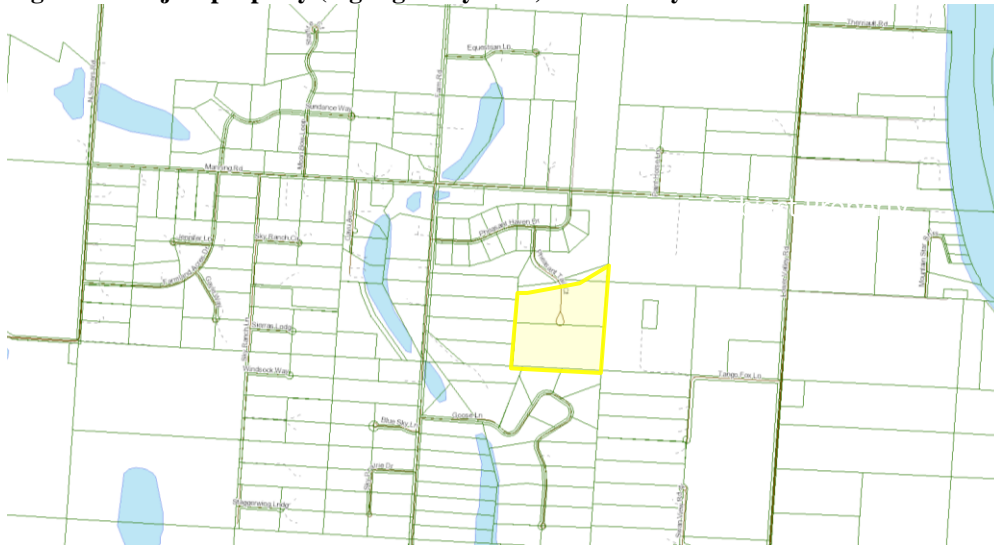
C. Legal Description of Subject Property

The subject property can be legally described as Assessor's Tracts 3C, 3D, and 3E in Section 8, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

D. Detailed Location

Located north of Highway 82 approximately 7 miles southeast of Kalispell, the subject property is situated near the intersection of Farm Road and Manning Road (refer to Figure 1).

Figure 1- Subject property (highlighted yellow) and vicinity



E. Subdivision Layout Detail

- | | |
|---|---------------------------------|
| i. Total Subdivision Acreage: | 41.39 acres |
| ii. Acreage in Lots: | 40.14 acres |
| iii. Acreage in Roads: | 1.09 acres |
| iv. Total Park/ Open Space Acreage: | 0 net acres |
| v. Minimum Lot Size: | 5.95 acres |
| vi. Maximum Lot Size: | 10.06 acres |
| vii. Overall Gross Lot Density: | 1 dwelling unit per 8.278 acres |
| viii. Easements: | |
| • 60-foot private road and utility easement of Pheasant Tail Court which provides | |

direct physical and legal access to the subdivision.

ix. Common Areas

The preliminary plat indicates Open Space D is located within the teardrop cul-de-sac at the end of Pheasant Tail Court. This open space, approximately .158 acres was initially anticipated during the prior review and approval of the Pheasant Haven Subdivision on April 5, 2004.

F. Administrative Characteristics

i. Current Land Use

The subject property is comprised of open vacant fields which have historically been used for agricultural and grazing purposes (refer to Figure 2).

Figure 2 - Current land use and land cover (subject property shown blue)



ii. Current Zoning

Located in the Lower Valley between Kalispell and Flathead Lake, the subject property is currently not zoned. The closest zoning district is located approximately .5 miles from the subject property.

iii. Proposed Land Use

The request is for preliminary plat approval of Pheasant Haven Phase 4, a 5-lot single-family residential subdivision located on the 41.39 acre subject property, with approximately .158 acres of open space. All lots would be served by individual wells and wastewater treatment systems.

G. Area Characteristics

i. Description of Area Surrounding Proposed Subdivision

Located approximately 1.5 miles north of Highway 82, the character of the area surrounding the proposed subdivision is predominantly agricultural and rural residential.

ii. Zoning

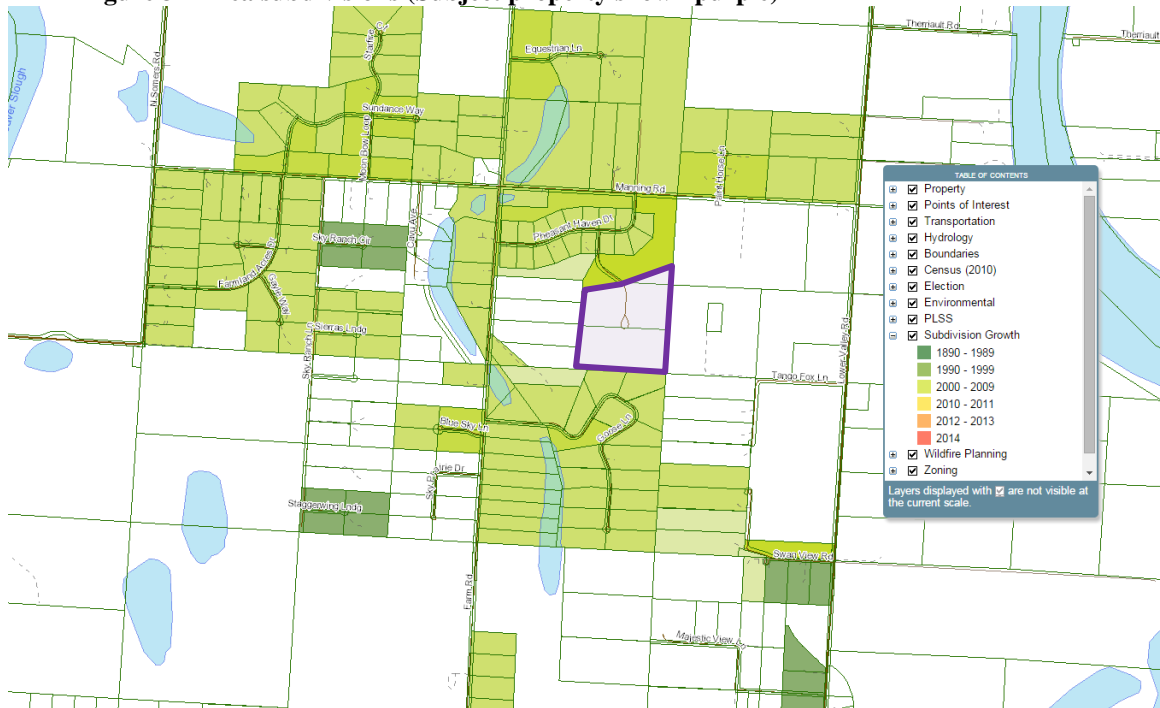
As shown in Figure 3 the subject property is located within an un-zoned area. The closest zoned property, AG-20, is located approximately .5 miles from the subject property.

iii. Land Uses

As shown in Figure 2, the subject property is situated in an area developed with a mix of agricultural and rural residential uses.

iv. Previously Considered Subdivisions in Area

Figure 3 - Area subdivisions (Subject property shown purple)



As shown in Figure 3 above, there are a number of platted subdivisions clustered in close proximity to the proposed subdivision including Goose Meadow Subdivision, Conrad Farms, Farmland Acres, Skyview Estates, Sky Ranch Subdivision, Blue Sky Estates primarily developed in the 1990s and 2000s. The cited neighboring subdivisions reinforce the idea that the area is comprised of rural residential land uses.

H. Utilities and Services

i. Water

Individual wells

ii. Wastewater

Individual wastewater treatment systems

iii. Electricity

Flathead Electric Cooperative

iv. Natural Gas

None

v. Solid Waste

Contract Haul

vi. Telephone Service

- Century Tel
- vii. School District(s)**
Somers/Lakeside (K-8), Flathead High School
 - viii. Fire District(s)**
Somers Volunteer Fire District
 - ix. Police**
Flathead County Sheriff's Department

III. COMMENTS RECEIVED

A. Agency Comments

The subdivision file contains a copy of the agency referral document sent on January 12, 2015. As of the date of completion of this staff report, the following comments have been received:

- Jim Chilton, Flathead County Solid Waste
 - The District requests all new subdivisions use a private hauler to accommodate solid waste. Evergreen Disposal is the Public Service Commission licensed hauler in the area. The District believes that the applicant is approaching the issue of solid waste in an appropriate manner.
- Wendee Jacobs, Flathead County Environmental Health Department
 - The proposed Pheasant Haven Phase 4 was previously reviewed by Montana Department of Environmental Quality and has an existing approval (EQ# 05-1689).
- Dave Prunty, Flathead County Road and Bridge Department
 - The department does not have a problem with the application, however, dust generation is a concern. A Dust Cost Share Program has been established in the area to mitigate dust on the full length of Manning Road and parts of Farm Road totaling 1.62 miles. The Department hopes that with the additional 50 trips per day the subdivider and homeowners would participate in the Dust Cost Share Program.
- Gael Bissell and Kenneth Breidinger, Montana Fish, Wildlife and Parks
 - All of tract 3D and 3E include substantial area of existing, relatively rare native hawthorn and grassland habitat for locally important wildlife such as white-tailed deer, pheasants, wintering raptors, native songbirds, and many other species. Ideally, parcel boundaries should exclude this habitat or have building sites located outside these areas. Covenants should also restrict native shrub removal, burning, or wholesale conversion to other land uses.
- Steve Robinson, Flathead County Weed, Parks and Recreation
 - The Department conducted a Noxious Weed Inspection on January 20, 2015 and noted that a Soil Disturbance and Weed Management Plan is required to be returned within 10 days of the dated letter and will be required prior to final plat approval.

B. Public Comments

In accordance with Section 4.0.14 Flathead County Subdivision Regulations (FCSR), adjacent property notification was mailed to neighboring property owners within 150 feet

of the proposed subdivision on February 18, 2015, legal notice was published in the Daily Interlake on February 22, 2015, and notice of the proposal and public hearing was physically posted onsite on February 25, 2015.

As of the date of the completion of this staff report, no written public comments have been received from the general public regarding the proposal. Any written public comment received after February 26, 2015 will be summarized verbally and entered into the public record during the Planning Board hearing on March 11, 2015. Anyone wishing to provide verbal public comment may do so in person at the March 11, 2015 Planning Board hearing.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed. Definitions of primary review criteria can be found in Chapter 2 of the Flathead County Development Code.

i. Impact on Agriculture

The subject property has historically been used for agriculture and livestock pasture however the development of the Pheasant Haven Subdivision in the early 2000s reverted the subject property to the current vacant status. The soil classification on site is predominantly Th- Tuffit-Somers silty clay loams with 0-5% slopes with a small portion to the southwest classified as Sg- Somers silty clay loams with 0-3% slopes. Th- Tuffit Somers is considered “not prime farmland” while Sg- Somers is noted as being “prime farmland if irrigated.” While the southwestern portion of the lot has been used for agricultural purposes in recent times, the rest of the lot is not especially suited or utilized for agricultural land use. While the proposal would result in a small reduction in agricultural production onsite, it does not appear the proposal would impact the ability of neighboring properties to continue to be used for agriculture. The evaluation of the submitted Preliminary Plat, Environmental Assessment, and supporting documentation included with the application has identified no adverse impacts to onsite or area agriculture which would necessitate special mitigation.

Finding #1

The development’s impact on agriculture would be minimal because soil quality and historic land use indicates that the property is not especially suited for agricultural use and the proposal would not likely influence surrounding agricultural land use.

ii. Impact on Agricultural Water User Facilities

The subject property is not developed with irrigation infrastructure, is not in an irrigation district or party to any irrigation agreements, and serves no irrigation water to adjacent or neighboring properties.

Finding #2

There would be no impact to agricultural water user facilities because the subject property is not currently irrigated for agricultural purposes, has no irrigation infrastructure on established site, is not in an irrigation district, and is not party to any apparent existing irrigation agreements.

iii. Impact on Local Services

1. Water and Wastewater

While lots in Pheasant Haven Phase 1-3 are served by a public water system, the Environmental Assessment indicates that the developer does not have water rights in place to serve the 5 lots in Phase 4. While a water main connecting to the public system is in place along Pheasant Tail Court, each lot will utilize individual wells and wastewater treatment systems. It is therefore anticipated that the subdivision as currently proposed will introduce no impacts to public water and wastewater services.

According to correspondence with Wendee Jacobs submitted with the application materials, the MDEQ approval for the Pheasant Haven Subdivision as reviewed in 2004 is still valid for this phase. Therefore, no additional review will be necessary at this time. The applicant will, however, be required to provide a copy of the approval prior to final plat. The Environmental Assessment also notes that when the subdivision was initially reviewed, all 5 lots currently under subdivision review were approved for either individual well or connection to the public system serving phases 1-3.

2. Schools

The proposal is located in the Somers/Lakeside School District #29 and the Flathead High School District. The subject property is located approximately 9 miles from Lakeside Elementary School, 4.5 miles from Somers Middle School, and 10 miles from Flathead High School. The Environmental Assessment indicates an average of 0.31 school-aged children per household has been used to determine the impacts to the school district anticipated as a result of development, based upon the number of students recorded in the Flathead County school system and the total number of households in Flathead County. Using these calculations, an additional 2 school-aged children are anticipated as a result of development of the proposed 5 lot residential subdivision. Although solicited, the Flathead County Superintendent of Schools has provided no comment.

3. Mail Delivery

The developer is proposing a centralized mailbox to serve the additional 5 proposed lot within the Pheasant Haven Subdivision. The location of the centralized mail facility serving the proposed subdivision shall require review and written approval from the local postmaster as a condition of final plat approval.

Finding #3

Impacts on local services appear to be acceptable because the subdivision as currently proposed would utilize individual well and wastewater treatment systems that have already obtained MDEQ approval, would have minimal impacts on schools and mail delivery.

4. Recreation

The proposal is located in Lower Valley and is in close proximity to a wide range of recreation opportunities in surrounding water bodies, public parks around Somers, and waterfowl production areas. Additionally, the application and Environmental Assessment note that when the Pheasant Haven Subdivision preliminary plat was initially approved in 2004, approximately 37 acres of open space and parkland was dedicated to satisfy applicable subdivision 'parkland' requirements of all 4 of the

proposed phases. No additional parkland is required as all lots are greater than 5 gross acres in size and the initial dedicated land more than covers this phase. Within Pheasant Haven Phase 4 is a .157 acre “Open Space D” located within the teardrop shaped cul-de-sac. Maintenance for this open space as well as the rest of the open space/park land will be the responsibility of the Pheasant Haven Homeowners Association as noted in the CC&Rs.

5. Transportation Network

Primary access to the proposed subdivision is Pheasant Tail Court and Pheasant Haven Drive via Farm Road and Manning Road. Pheasant Tail Court and Pheasant Haven Drive are both paved internal subdivision roads located within 60’ private road and utility easements as required by the Flathead County Road and Bridge *Minimum Standards for Design and Construction*. Road maintenance for all internal subdivision roads, include Pheasant Tail Court accessing lots in Pheasant Haven Phase 4, will be conducted by the Homeowners Association as noted in the CC&Rs developed for the Pheasant Haven Subdivision.

When the subdivision was initially reviewed in 2004, staff recognized that Farm and Manning Road were both unpaved, however a waiver of the right to protest an RSID was considered appropriate mitigation. As primary access to the subject property currently under review is the paved Pheasant Tail Court and Pheasant Haven Drive, no off-site improvements could be considered. Comment from Dave Prunty from the Flathead County Road and Bridge Department indicates that a Dust Cost Share Program is in place to mitigate the effects of dust as a result of development along Farm and Manning Road and suggests that the subdivider and homeowners contribute to the costs of applying Magnesium Chloride 50/50 to the unpaved roads. While not required by the Flathead County Subdivision Regulations, the developer may consider revising the existing CC&R’s for the Pheasant Haven Subdivision, including Pheasant Haven Phase 4, to require home owners to contribute to the Dust Cost Share Program for as long as the road remains unpaved. Maintenance for all internal subdivision roads shall be the responsibility of the Pheasant Haven Homeowners Association as noted in the existing CC&Rs.

Finding #4

Impacts on the recreation would be acceptable because the proposed subdivision lots are greater than 5 gross acres in size and has met all required parkland requirements with previous phases of the Pheasant Haven Subdivision.

Finding #5

Impacts on the transportation network would be appear to be appropriate because primary access to the subdivision would be from Pheasant Haven Drive and Pheasant Tail Court which are currently paved to county standards as required for Final Plat approval of Phases 1-3 and the 5 lots in Phase 4 would be accessed by the paved Pheasant Tail Court subdivision road located within a 60 foot private road and utility easement. Minimal impacts may occur as a result of additional 50 vehicle trips on Manning Road and Farm Road, unpaved county maintained roads, however a Dust Cost Share Program exists which would likely mitigate issues produced from these relatively few additional vehicle trips.

6. Fire/Emergency Medical Services

The site is located within the Somers Rural Fire District, and a fire station is located approximately 5 driving miles southwest of the subdivision Highway 93 and the Kalispell Regional Medical Center is approximately 12 driving miles from the proposed subdivision.

7. Police Services

The property is located in an unincorporated area of Flathead County and is therefore served by the Flathead County Sheriff. Although solicited, the Sheriff's Department has provided no comment. Given existing staffing levels, the size of the County and the dispersed nature of the population, service to this subdivision is anticipated to be consistent with other unincorporated rural areas of Flathead County and delayed response times may be experienced.

8. Solid Waste Disposal

The developer is proposing contract haul as a mechanism for solid waste disposal. A letter from the Flathead County Solid Waste District supports the proposed method of waste disposal as the District requests that all new subdivisions in Flathead County use a contract hauler to bring solid waste to the landfill.

9. Other Utilities

As indicated in the application, Flathead Electric will provide electrical power and CenturyLink will provide telephone service. According to the application and Environmental Assessment, electric and telephone utilities have been placed underground within the existing and proposed utility easements during previous phases of the Pheasant Haven Subdivision.

Finding #6

Impacts on utilities, fire, emergency medical, police and solid waste services would be acceptable with standard conditions because the lots would utilize contract haul services, will be served by the Somers Rural Fire District and the Flathead County Sheriff's Department in the event of an emergency, and have access to phone and electric utilities extended underground in conformance with the applicable regulations.

iv. Impact on the Natural Environment

1. Water Quality

There are no surface waters or wetland areas on the subject property and the nearest surface water is that of Flathead River approximately 1 mile east of the subdivision. The generally flat site is underlain by Tuffit-Somers silty clay loams, 0-5% slope and Somers silty clay loam (Sg) 0-3% slope soils both well suited to subsurface sewage treatment systems. Groundwater monitoring data was collected in 2004 when the preliminary plat of the Pheasant Haven subdivision was initially reviewed and approved. According to the data collected in 2004 and submitted with the application materials, groundwater was observed between 10.4 to 11.5 feet within the subdivision boundaries. The MDEQ issued a "determination of significance" and concluded that the subdivision will not degrade state waters.

The submitted Environmental Assessment and stormwater management plan indicate stormwater drainage would be managed onsite through roadside swales. Due to the large size of the lots and the relatively flat nature of the area, the roadside ditches are

anticipated to provide more than required retention for stormwater drainage. No stormwater drainage would enter natural surface waters as a result of runoff from the subdivision.

As previously mentioned, the water, wastewater, and stormwater management plans submitted with the application were initially reviewed when the Pheasant Haven Subdivision was initially reviewed and approved in 2004. According to email comment from Wendee Jacobs included in the application, no further sanitation review is necessary as the proposal is in significant conformance to what received MDEQ approval.

2. Air Quality

Primary access to the subdivision would be by Pheasant Haven Drive and Pheasant Tail Court, the existing paved internal subdivision roads. The remainder of Pheasant Tail Court located within Phase 4 will also be paved to Flathead County Road and Bridge Department *Minimum Standards for Design and Construction*. However, when the subdivision was initially reviewed in 2004, the then-primary access roads, Manning Road and Farm Road, were not required to be paved. Due to the unpaved nature of Manning and Farm Road, the Flathead County Road and Bridge Department submitted a comment indicating concern regarding dust generation. The Department has worked with the neighboring property owners to participate in the Dust Cost Share Program which shares the expense of applying magnesium chloride 50/50 to county-maintained gravel roads. As this application is for Phase 4 of the Pheasant Haven Subdivision and neither Manning Road nor Farm Road are primary accesses to the 5 lots, no off-site improvements were deemed appropriate.

As Pheasant Haven Drive and Pheasant Tail Court are paved or will be paved, minimal dust emission within the subdivision is anticipated. Impacts to air quality are anticipated as a result of additional vehicle trips utilizing Manning and Farm Road, however it appears Flathead County Road and Bridge Department maintenance and cost share programs exist to mitigate dust and air quality programs. The developer has submitted a draft Dust Control Plan compliant with Section 4.7.14 FCSR. A note should be required to be placed on the face of the final plat that notifies the owners of all lots of the guidelines set forth in the plan during and after site construction and development activities.

3. Impact of Noise

Development of residences on the subdivision lots would likely generate minimal noise during construction, and it is not likely that all would be built simultaneously. The proposed residential use is not anticipated to generate permanent continuous impacting noise to area residents or wildlife.

4. Impact to Flora

The subject property contains no surface waters, wetland or riparian vegetation, and the property is relatively flat and open grassland which has been used for agricultural and livestock pasture in the past. The only anticipated impacts to flora are those associated with potential propagation of weeds on disturbed areas if not managed appropriately as indicated in the comment provided by the Flathead County Weed, Parks, and Recreation Department. Pursuant to Section 4.7.25 FCSR the developer

would be required to develop and implement a weed management plan prior to final plat approval.

5. Impact to Floodplain

According to FEMA FIRM Panel 30029C2285G, the subject property contains area mapped as Zone X. Zone X is defined as areas determined to be outside the 2% annual chance floodplain (500-year floodplain).

6. Impact to Riparian/Wetland Areas

There would be no impact to riparian or wetland areas because no riparian or wetland areas occur on the subject property, and there are no surface waters located on or adjacent to the site.

7. Impact to Historical Features

The Environmental Assessment and supporting documentation from the State Historic Preservation Office indicates there are no known historic, archeological, or cultural sites on the subject property.

Finding #7

Adverse impacts to water quality as a result of the subdivision are not anticipated because there is no surface water or indication of shallow ground water less than four feet from the surface present on the subject property; all lots would use individual well and septic systems; stormwater management would prevent direct discharge of stormwater from entering area surface waters; and the water supply, wastewater treatment, and stormwater management have already been reviewed and approved by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality .

Finding #8

Minimal impacts to flora are anticipated because the area proposed for development has been used historically for agriculture and livestock pasture and completion and implementation of a weed control plan as a condition of preliminary plat approval would mitigate existing weeds and minimize the potential for propagation of additional weeds in disturbed areas.

Finding #9

Impacts to designated floodplain are not anticipated because there are no surface waters on the property and the subject property is mapped as Zone X floodplain which is not subject to regulation in subdivisions pursuant to Section 4.7.9 FCSR.

Finding #10

Adverse effects of the proposed subdivision on the natural environment would be minimal and acceptable with the imposition of conditions requiring the developer to mitigate dust and to take necessary steps to manage noxious weeds on site. Impact to the other criteria discussed relative to 'impact on the natural environment' would also be minimal and acceptable with the imposition of conditions.

v. Impact on Wildlife Habitat

The subject property is relatively flat and open land which has been used for agriculture and livestock pasture and which provides some habitat for general wildlife where subdivision improvements and residential lots are proposed. According to submitted data

from the Montana Natural Heritage Program, several ‘species of concern’ occur in the vicinity of the subdivision and use the specific habitat found within the vicinity of the subdivision.

According to comment received from the Montana Fish, Wildlife and Parks, “all of 3D and half of 3E include a substantial area of existing, relatively rare native hawthorn and grassland habitat (food and cover) for locally important wildlife such as white-tailed deer, pheasants, wintering raptors, native songbirds, and many other species.” Montana FW&P suggest arranging boundary lines or building sites to as to minimize fragmentation of these areas. As the proposal includes only 5 lots, of which the smallest lot is approximately 6 acres, requiring clustering would appear to be disproportional to the effect of habitat loss. Additionally, the County is unable to regulate the location of building sites within each lot. Staff has concluded that the relatively large lot sizes and the amount of development in the area (see Figure 3) indicate that minimal impact on wildlife habitat will be directly attributable to the 5 lots being reviewed.

Finding #11

The proposed subdivision is anticipated to introduce minimal adverse impacts to wildlife habitat because while a number of ‘species of concern’ have been identified in one square mile of the subdivision and the site may contain habitat for locally important wildlife as identified by Montana Fish, Wildlife and Parks, the relatively large size of the lots and the amount of development in the vicinity suggest that significant impacts to habitat and wildlife will not be directly attributable to this 5 lot subdivision and there are no way to enforce building site locations during subdivision review.

vi. Impact on Public Health and Safety

1. Flood Risk

The subject property has no streams, wetlands or lakes, and according to FEMA FIRM Panel 2285G, the subdivision is located in an area designated as Zone X - outside of the 2% annual chance floodplain. Therefore the proposal would not introduce adverse impacts to public health and safety in regard to flooding.

2. Water and Wastewater Treatment

While lots in Pheasant Haven Phase 1-3 are served by a public water system, the Environmental Assessment indicates that the developer does not have water rights in place to serve the 5 lots in Phase 4. While a water main connecting to the public system is in place along Pheasant Tail Court, each lot will utilize individual wells and wastewater treatment systems. As the lots are 20 acres or smaller, details of overall suitability regarding the wastewater treatment system, water supply and storm drainage are required be reviewed by the Flathead County Environmental Health Department and the Subdivision Section of the Department of Environmental Quality (DEQ) for compliance with the Sanitation in Subdivisions Act. However, the review and Certificate of Subdivision Approval for the Pheasant Haven Subdivision issued in 2005 appear to satisfy this requirement.

3. Stormwater

The submitted Stormwater Drainage Plan establishes the conceptual plan for stormwater management and indicates no stormwater drainage would enter vicinity surface waters as a result of runoff from the subdivision. The plan appears to

adequately manage stormwater through roadside swales to accumulate non-absorbed stormwater. As the proposed stormwater management plan was previously approved, no additional review will be necessary at this time.

4. Traffic Safety

Primary access to the proposed subdivision would be from Pheasant Haven Drive and Pheasant Tail Court both paved internal subdivision roads designed and constructed to county standards as required for Final Plat approval of Phases 1-3 of the Pheasant Haven Subdivision. Pheasant Tail Court is currently paved to the boundary between the previously approved Phase 3 and Phase 4 boundary and the remainder of this road accessing the 5 lots will be required to be constructed to Flathead County Road and Bridge Department Standards and located within an access and utility easement. Due to the relatively flat nature of the area, the proposed internal road and individual driveways appear to have adequate grades. The proposed subdivision and its individual driveways are not anticipated to impact traffic safety because the road would be required to be constructed and paved to applicable standards. Comments from the Flathead County Road and Bridge Department indicate no issues with the proposal with the exception of dust generation which may be mitigated if future homeowners participate in the Dust Cost Share Program. And any off-site roadway improvements to Manning Road and Farm Road, unpaved county roads, would not be appropriate at this time as Pheasant Haven Drive and Pheasant Tail Court are the primary access roads.

5. High Voltage Electric Lines/High Pressure Gas Lines

There are no exposed high voltage electric lines or high pressure gas lines on the subject property.

6. Fire and Emergency Services

The property is not mapped as being within the Wildland Urban Interface, and the subdivision's land cover is comprised mainly of grassland and shrubs. The site is located within the Somers Rural Fire District, and a fire station is located approximately 5 driving miles southwest of the subdivision Highway 93 and the Kalispell Regional Medical Center is approximately 12 driving miles from the proposed subdivision.

7. Geologic Hazards

As shown on the preliminary plat, the subject property is generally flat with no variable terrain features such as surface waters, steep slopes, or ravines. The submitted environmental assessment and groundwater monitoring data indicate no shallow groundwater or soils which would limit safe development of lots and subdivision infrastructure.

8. Avalanche Hazards

The subdivision is not located in an area of the County considered to be prone to avalanche hazards.

9. Airport Influence Areas

The subject property is not within an airport influence area.

10. Soils

As indicated in submitted application materials, soils on the subject property are generally comprised of Somers silty clay loam (Sg) 0-3% slope and Tuffit-Somers silty clay loam (Th) 0-5% soils. While the NRCS Web Soil Survey indicates that these soils may pose limitations for development due to slope, shrink swell, and groundwater issues, site specific analysis indicates low slopes and groundwater greater than 8 feet from the surface. It is therefore anticipated soils on site would not pose a risk for health and safety for typical residential uses and road development, as other area properties and roads similarly situated appear to be developed with adequate stability.

Finding #12

The proposal would not introduce adverse impacts to public health and safety in regard to flooding because the subject property has no streams or other surface waters, and according to FEMA FIRM Panel 2285G, the subject property is not located within a Special Flood Hazard Area but is located within an area mapped as Zone X - 2% annual chance flood area.

Finding #13

The effects of this proposed subdivision on public health and safety in regard to the proposal for water and wastewater treatment appear acceptable because the proposal would use onsite wells for water and wastewater treatment systems which have been approved by MDEQ (EQ#05-1689).

Finding #14

Impacts of the proposed subdivision on the area road network appear to be acceptable because the primary access and internal subdivision roads shall be paved to county standards, and comments from the Flathead County Road and Bridge Department indicate no issues with the proposal with the exception of dust generation which may be mitigated if homeowners participate in the Dust Cost Share Program.

Finding #15

Minimal risks to public health and safety are anticipated because the proposal for water, sanitation, and stormwater has been previously approved by MDEQ (EQ#05-1689); adequate physical and legal access to the subdivision can be provided; adequate emergency services are available for the subdivision; there are no mapped Special Flood Hazard Areas within the subdivision; there are no high voltage electric or high pressure gas lines on or around the subject property; and, there are no apparent hazards associated with geology, avalanche, or airport influence areas.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.

Finding #16

The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations

Finding #17

No variances are requested or required. The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective December 1, 2014 as compliant legal and physical access would be provided and potential impacts to the primary review criteria appear able to be adequately addressed by conditions.

D. Compliance with the Flathead County Subdivision Review Procedure

i. Pre-application Conference Date

November 12, 2014

ii. Application Deadline Date (6 months from pre-application)

April 12, 2015

iii. Application Submittal Date

December 23, 2014

iv. Completeness Date

December 31, 2014

v. Sufficiency Date

January 9, 2015

vi. Agency Referral Requests Mailing Date

January 12, 2015

vii. Adjacent Property Notification Mailing Date

February 18, 2015

viii. Legal Notice Publication Date

February 22, 2015

ix. On-site Posting of Public Hearing Date

February 25, 2015

Finding #18

The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 1, 2014.

E. Provision of Easements for the Location and Installation of Planned Utilities

Finding #19

The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

F. Provision of Legal and Physical Access to Each Parcel

Finding #20

Pheasant Haven Drive and Pheasant Tail Court would provide legal and physical access to the subdivision. The internal road system would be privately maintained, occurring within a 60 foot wide private road and utility easement, and would be constructed and paved in compliance with applicable Flathead County standards.

G. Review of Applicable Plans

76-1-605(2)(b) M.C.A. states that “A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.” Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by

which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

i. Neighborhood Plan

The proposed Pheasant Haven Phase 4 is not located within a neighborhood plan area.

ii. Flathead County Growth Policy

The Flathead County Growth Policy is a general policy document that meets the requirements of 76-1-601, M.C.A. and was updated on October 12, 2012. While the location is in an area of the county that is un-designated in terms of land-use on the Flathead County Designated Land Use Map, it occurs in a rural agricultural area and the proposal appears to substantially meet the general goals and policies applicable to agricultural and residential uses and appears to meet relevant goals and policies applicable to sanitation and access to available services, as defined in Chapters 2-8 of the Flathead County Growth Policy. Regulations adopted by Flathead County used in the review of subdivisions are an implementation of the goals and policies established in the Growth Policy. This proposal conforms to the regulations used in the review of subdivision in Flathead County and is therefore in general compliance with the Flathead County Growth Policy.

H. Compliance with Local Zoning

The proposed subdivision is located in an area of Flathead County that is presently unzoned. Therefore compliance with local zoning is not applicable nor required as part of this subdivision application and review.

Finding #21

The proposed subdivision is located in an unzoned area of Flathead County is not required to comply with local zoning regulations because no such zoning exists that is applicable to the subject property.

V. SUMMARY OF FINDINGS

Finding #1

The development's impact on agriculture would be minimal because soil quality and historic land use indicates that the property is not especially suited for agricultural use and the proposal would not likely influence surrounding agricultural land use.

Finding #2

There would be no impact to agricultural water user facilities because the subject property is not currently irrigated for agricultural purposes, has no irrigation infrastructure on established site, is not in an irrigation district, and is not party to any apparent existing irrigation agreements.

Finding #3

Impacts on local services appear would be acceptable because the subdivision as currently proposed would utilize individual well and wastewater treatment systems that have already obtained MDEQ approval, would have minimal impacts on schools and mail delivery.

Finding #4

Impacts on the recreation would be acceptable because the proposed subdivision has met all required parkland requirements with previous phases of the Pheasant Haven Subdivision.

Finding #5

Impacts on the transportation network would be appear to be appropriate because primary access to the subdivision would be from Pheasant Haven Drive and Pheasant Tail Court which are currently paved to county standards as required for Final Plat approval of Phases 1-3 and the 5 lots in Phase 4 would be access by the paved Pheasant Tail Court subdivision road located within a 60 foot private road and utility easement. Detrimental impacts may occur as a result of additional vehicle trips on Manning Road and Farm Road, unpaved county maintained roads, unless appropriate maintenance is continued.

Finding #6

Impacts on utilities, fire, emergency medical, police and solid waste services would be acceptable with standard conditions because the lots would utilize contract haul services, will be served by the Somers Rural Fire District and the Flathead County Sheriff's Department in the event of an emergency, and have access to phone and electric utilities extended underground in conformance with the applicable regulations.

Finding #7

Adverse impacts to water quality as a result of the subdivision are not anticipated because there is no surface water or indication of shallow ground water less than four feet from the surface present on the subject property; all lots would use individual well and septic systems; stormwater management would prevent direct discharge of stormwater from entering area surface waters, and; the water supply, wastewater treatment, and stormwater management have already been reviewed and approved by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality .

Finding #8

Minimal impacts to flora are anticipated because the area proposed for development has been used historically for agriculture and livestock pasture and completion and implementation of a weed control plan as a condition of preliminary plat approval would mitigate existing weeds and minimize the potential for propagation of additional weeds in disturbed areas.

Finding #9

Impacts to designated floodplain are not anticipated because there are no surface waters on the property and the subject property is mapped as Zone X floodplain which is not subject to regulation in subdivisions pursuant to Section 4.7.9 FCSR.

Finding #10

Adverse effects of the proposed subdivision on the natural environment would be minimal and acceptable with the imposition of conditions requiring the developer to mitigate dust and to take necessary steps to manage noxious weeds on site. Impact to the other criteria discussed relative to 'impact on the natural environment' would be minimal and acceptable with the imposition of conditions.

Finding #11

The proposed subdivision is anticipated to introduce minor adverse impacts to wildlife habitat because while a number of 'species of concern' have been identified in one square mile of the subdivision and the site contains unique habitat for locally important wildlife as identified by Montana Fish, Wildlife and Parks, the relatively large size of the lots and the amount of development in the vicinity suggest that significant impacts to habitat and wildlife will not be directly attributable to this 5 lot subdivision.

Finding #12

The proposal would not introduce adverse impacts to public health and safety in regard to flooding because the subject property has no streams or other surface waters, and according to FEMA FIRM Panel 2285G, the subject property is not located within a Special Flood Hazard Area but is located within an area mapped as Zone X - 2% annual chance flood area.

Finding #13

The effects of this proposed subdivision on public health and safety in regard to the proposal for water and wastewater treatment appear acceptable because the proposal would use onsite wells for water and a wastewater treatment systems which have been approved by MDEQ (EQ#05-1689).

Finding #14

Impacts of the proposed subdivision on the area road network appear to be acceptable because the primary access and internal subdivision roads shall be paved to county standards, and comments from the Flathead County Road and Bridge Department indicate no issues with the proposal with the exception of dust generation which may be mitigated if homeowners participate in the Dust Cost Share Program.

Finding #15

Minimal risks to public health and safety are anticipated because the proposal for water, sanitation, and stormwater has been previously approved by MDEQ (EQ#05-1689); adequate physical and legal access to the subdivision can be provided; adequate emergency services are available for the subdivision; there are no mapped Special Flood Hazard Areas within the subdivision; there are no high voltage electric or high pressure gas lines on or around the subject property; and, there are no apparent hazards associated with geology, avalanche, or airport influence areas.

Finding #16

The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

Finding #17

No variances are requested or required. The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective December 1, 2014 as compliant legal and physical access would be provided and potential impacts to the primary review criteria appear able to be adequately addressed by conditions.

Finding #18

The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 1, 2014.

Finding #19

The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

Finding #20

Pheasant Haven Drive and Pheasant Tail Court would provide legal and physical access to the subdivision. The internal road system would be privately maintained, occurring within a 60 foot wide private road and utility easement, and would be constructed and paved in compliance with applicable Flathead County standards.

Finding #21

The proposed subdivision is located in an unzoned area of Flathead County is not required to comply with local zoning regulations because no such zoning exists that is applicable to the subject property.

VI. CONCLUSION

In accordance with the provisions of Section 4.4 of the Flathead County Subdivision Regulations, a review and evaluation of the major subdivision application has been completed by the staff of the Planning Board. The proposed subdivision appears to generally comply with the applicable design standards and subdivision review criteria found in Section 4.7 FCSR, pursuant to Findings of Fact stated above, or can be mitigated with conditions of approval. Should the Planning Board forward a recommendation of approval of this subdivision to the Flathead County Commissioners, the following conditions should be considered to supplement that recommendation.

VII. CONDITIONS

A. Standard Conditions

1. The developer shall receive physical addresses in accordance with Flathead County Resolution #1626C. All road names shall appear on the final plat. Street addressing shall be assigned by Flathead County. [Section 4.7.16(g)(iv), 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]
2. The developer shall comply with reasonable fire suppression and access requirements of the Somers Rural Fire District. A letter from the fire chief stating that the plat meets the requirements of the Fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b), FCSR]
3. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25, FCSR]

4. Design and construction of all internal subdivision roads shall be certified by a licensed engineer and constructed and paved as proposed in accordance with the *Flathead County Minimum Standards for Design and Construction*, as applicable. [Sections 4.7.16, 4.7.17 FCSR]
5. With the application for final plat, the developer shall provide a compliant Road Users' Agreement or CC&R document which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.15(e), FCSR]
6. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23, FCSR]
7. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the developer has met their requirements shall be included with the application for final plat. [Section 4.7.28, FCSR]
8. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22, FCSR]
9. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
10. All road names shall be approved by Flathead County and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
11. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.23, FCSR]
 - c. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
 - d. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR]
 - e. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25, FCSR]
12. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), M.C.A.]

13. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality (DEQ) General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained prior to any site disturbance or construction and a copy of the DEQ confirmation letter shall be provided to the Flathead County Planning & Zoning office prior to final plat approval. [17.30.1115 Administrative Rules of Montana (A.R.M.)]
14. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16, FCSR]
15. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13, FCSR]
16. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]